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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 vs.

14 WILLIAM JOHN GREEN,

15 Defendant.

CASE NO. 11cr0938 JM

ORDER DENYING MOTION FOR  
RECONSIDERATION

16 Defendant moves for reconsideration of this court's October 28, 2014 Order  
17 Denying Motion for an Extension of Time ("Order") to file a motion pursuant to 28  
18 U.S.C. §2255 ("§2255 Motion"). (Ct. Dkt. 161). Reconsideration is generally  
19 appropriate "if the district court (1) is presented with newly discovered evidence, (2)  
20 committed clear error or the initial decision was manifestly unjust, or (3) if there is an  
21 intervening change in controlling law. . . . There may also be other, highly unusual  
22 circumstances warranting reconsideration." School Dist. No. 1J, Multnomah County,  
23 Oregon v. ACandS, Inc., 5 F.3d 1255, 1263 (9<sup>th</sup> Cir. 1993) (citations omitted).

24 The court denies the Motion for Reconsideration because Defendant fails to  
25 present any newly discovered evidence, clear error, or intervening change in  
26 controlling law. While no doubt exists that equitable tolling is available to toll the  
27 statute of limitations upon a showing of extraordinary circumstances, Pace v.  
28 DiGuglielmo, 544 U.S. 408, 418 (2005), Defendant has not demonstrated extraordinary

1 circumstances. Defendant contends that he is unable to timely file a §2255 Motion  
2 because (1) he has not obtained the documents and transcripts needed to file a Motion;  
3 (2) a prior attorney has not forwarded the case file to Defendant; (3) the BOP has not  
4 provided him with essential medical records; and (4) he claims that he suffers from  
5 “cognitive impairment, severe illness, and numerous 2014 hospitalizations. “ (Mtn. at  
6 p.5). The court notes that it has granted numerous requests by Defendant for  
7 documents and transcripts. (Ct. Dkts. 134, 135, 156). The court has denied  
8 Defendant’s generalized request for copies of any letters written and received by the  
9 court in 2011 from any of his five different appointed counsel because Defendant failed  
10 to identify any specific docket entry.<sup>1</sup> (Ct. Dkt. 151). The letters simply do not exist.  
11 In response to Defendant’s further requests for additional documents, on November 13,  
12 2014, the court issued an order instructing Defendant to complete the appropriate CJA  
13 form and to forward it to the Court Reporter to receive additional transcripts and  
14 informed Defendant that he had already been provided with copies of the documents  
15 he requested. (Ct. Dkt. 162).

16 With respect to Defendant’s inability to obtain BOP records, the court has no  
17 doubt that Defendant has made repeated and frequent requests for documents from the  
18 BOP. Presumably, the BOP has complied with established procedures for providing  
19 inmates with copies of medical records. Regardless, this is not an issue before the  
20 court. With respect to Defendant’s own statement that he suffers from cognitive  
21 impairments, severe illness, and numerous 2014 hospitalization, such circumstances,  
22 as currently substantiated, fail to establish extraordinary circumstances warranting the  
23 tolling of the statute of limitations. The record indicates that Defendant’s medical  
24 condition has not limited his ability to make copious and coherent requests from the  
25 court. As indicated in its earlier Order, the one year statute of limitations contemplates  
26 that a movant will encounter delays in filing motions brought pursuant to 28 U.S.C.  
27 §2255.


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28 <sup>1</sup> The court notes that it does not maintain ex parte communications with counsel or the parties,  
unless otherwise permitted by law (and this exception does not apply to Defendant’s request).

1 In sum, Defendant fails to establish any of the prerequisites for reconsideration  
2 of its prior Order (or extraordinary circumstances warranting the tolling of the statute  
3 of limitations). Consequently, the Motion for Reconsideration is denied.

4 **IT IS SO ORDERED.**

5 DATED: November 20, 2014

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7 Hon. Jeffrey T. Miller  
United States District Judge

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